

REMARKS

The Official Action mailed February 25, 2005, has been received and its contents carefully noted. This response is filed within three months of the mailing date of the Official Action and therefore is believed to be timely without extension of time. Accordingly, the Applicants respectfully submit that this response is being timely filed.

The Applicants note with appreciation the consideration of the Information Disclosure Statements filed on April 12, 2000, June 17, 2002, July 17, 2002, August 14, 2002, January 27, 2003, August 21, 2003, June 1, 2004, November 26, 2004, and December 17, 2004.

The Applicants note the partial consideration of the Information Disclosure Statement filed on December 8, 2003. Specifically, it appears that the Examiner, without further explanation or comment, has crossed through the citations of Takada et al., PROCEEDINGS OF 46TH SPRING MEETINGS OF THE SOCIETY FOR APPLIED PHYSICS OF JAPAN, 28P-V-8, page 1316, and Yoshihara EKISHO, Vol. 3, No. 3, pp. 190-194. The Applicants respectfully submit that the citation of the Takada and Ekisho articles is proper. If there are any particular references that cannot be located by the Examiner in the Image File Wrapper or in the application file, the Applicants request that such references be identified in a subsequent communication. The Applicants respectfully request that the Examiner provide an initialed copy of the Form PTO-1449 evidencing consideration of the Takada and Ekisho articles or provide an explanation of why these articles have not been considered.

A further Information Disclosure Statement is submitted herewith and consideration of this Information Disclosure Statement is respectfully requested.

Claims 1-14, 25-38 and 51-64 are pending in the present application, of which claims 1, 2, 25, 26, 51 and 52 are independent. Claims 1, 2, 9-12, 33-36 and 59-62 have been amended to better recite the features of the present invention. For the reasons set forth in detail below, all claims are believed to be in condition for allowance. Favorable reconsideration is requested.

In response to the request in paragraph 2 of the Official Action, the specification has been amended to correct minor typographical and grammatical errors.

Paragraph 4 of the Official Action rejects claims 11 and 12 under 35 U.S.C. § 112, first paragraph, asserting that a feature of the claims "does not appear to be disclosed" (page 2, Paper No. 02082005), i.e. that a "coloring layer is provided between the resin film and the silicon nitride film or between the resin film and the silicon oxynitride film" (Id.) is not disclosed. The Applicants respectfully disagree, because a coloring layer provided between a resin film and a silicon nitride film or between the resin film and a silicon oxynitride film is described and shown, for example, at page 15, line 15, to page 18, line 6, and Figure 4B (see also, Figure 3D for a full understanding of Figure 4B). That is, for example, coloring layer 373 is provided between resin film 384 and silicon nitride film 372 or between the resin film 384 and silicon oxynitride film 372. The Applicants respectfully submit that claims 11 and 12 are adequately described in the specification. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 112 are in order and respectfully requested.

Paragraph 6 of the Official Action rejects claims 9-12 and 33-36 under 35 U.S.C. § 112, second paragraph. Regarding claims 9, 10, 33 and 34, the Official Action asserts that "[it] is not clear what is meant by ... 'the gate electrode is covered by an insulating film comprising a resin film and at least one of a silicon nitride film and a silicon oxynitride'" (pages 2-3, Paper No. 02082005). It appears this would also apply to claims 59 and 60. In response, claims 9, 10, 33, 34, 59 and 60 have been amended to recite that a gate electrode is covered by an insulating film comprising at least one of a silicon nitride film and a silicon oxynitride film. The Applicants respectfully submit that claims 9, 10, 33, 34, 59 and 60 are definite as amended. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 112 are in order and respectfully requested.

Regarding claims 11 and 12, the Official Action asserts that "[it] is not clear what is meant by ... 'coloring layer provided between the resin film and the silicon nitride film

or between the resin film and the silicon oxynitride film" (page 3, Paper No. 02082005). The Applicants respectfully disagree. As noted above, for example, coloring layer 373 is provided between resin film 384 and silicon nitride film 372 or between the resin film 384 and silicon oxynitride film 372. The Applicants respectfully submit that claims 11 and 12 are adequately described in the specification. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 112 are in order and respectfully requested.

Paragraph 7 of the Official Action objects to the drawings asserting that the drawings do not show the features of claims 11 and 12. As noted above, a coloring layer provided between a resin film and a silicon nitride film or between the resin film and a silicon oxynitride film is described and shown, for example, at page 15, line 15, to page 18, line 6, and Figure 4B (see also, Figure 3D for a full understanding of Figure 4B). Reconsideration and withdrawal of the objections are respectfully requested.

Paragraph 9 of the Official Action rejects claims 1, 2, 5, 6, 13 and 14 as anticipated by U.S. Patent No. 6,501,098 to Yamazaki. The Applicants respectfully submit that an anticipation rejection cannot be maintained against the independent claims of the present application, as amended.

As stated in MPEP § 2131, to establish an anticipation rejection, each and every element as set forth in the claim must be described either expressly or inherently in a single prior art reference. Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Independent claims 1 and 2 have been amended to recite a protection film in contact with a second conductive film, which is shown and described, for example, in Figure 3D and at page 15, line 15. The Applicants respectfully submit that Yamazaki '098 does not teach the above-referenced features of the present invention, either explicitly or inherently.

Since Yamazaki '098 does not teach all the elements of the independent claims, either explicitly or inherently, an anticipation rejection cannot be maintained.

Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 102 are in order and respectfully requested.

Paragraphs 11-21 of the Official Action reject claims 3, 4, 7-12, 25-38 and 51-64 as obvious based on Yamazaki '098, either alone or in combination with one or more of the following: S. Wolf, Silicon Processing for the VLSI Era, Lattice Press, Volume 2, Page 398 and 399, U.S. Patent No. 6,093,934 to Yamazaki, U.S. Patent No. 6,238,754 to Shohara et al., and U.S. Patent No. 6,835,607 to Takemura et al.

The Official Action asserts that Yamazaki '098 is available as prior art under § 102(a). The Applicants respectfully disagree. Yamazaki '098 was not published until October 2002, which was after the filing of the present application. Therefore, Yamazaki '098 is only available as prior art under § 102(e).

Yamazaki '098, as a commonly owned reference under § 102(e), may not be considered for a rejection under § 103. Subject matter developed by another, which qualifies as prior art only under one or more of subsections 35 U.S.C. §§ 102(e), (f) and (g), is not to be considered when determining whether an invention sought to be patented is obvious under 35 U.S.C. § 103, provided the subject matter and the claimed invention were commonly owned at the time the invention was made. See MPEP § 2146. Since the disclosure by Yamazaki '098 and the claimed invention of the present application were, at the time the invention was made, subject to an obligation of assignment to Semiconductor Energy Laboratory Co., Ltd., Yamazaki '098 may not be considered for a rejection under § 103. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 103(a) are in order and respectfully requested.

The Applicants note that Yamazaki '098 has a counterpart European Patent Application No. EP 1005094, which was first published May 31, 2000. EP '094 may be available as prior art. Therefore, a verified English translation of priority application JP 2000-115699 filed April 17, 2000, will be filed as soon as it is complete and received from Japan. Since EP '094 has a publication date of May 31, 2000, which is later than the filing date of JP '699, the Applicants respectfully submit that any potential rejection

under § 102 should be overcome. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 102 are in order and respectfully requested.

Should the Examiner believe that anything further would be desirable to place this application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



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